

1 ARE SUFFERING MAKES ME FEEL BETTER.

2 THE COURT: ALL RIGHT, YOU MAY PROCEED.

3 MR. WAGNER: YOUR HONOR, THE PLAINTIFF CALLS GUY  
4 JONES.

5 GUY JONES, SWORN

6 DIRECT EXAMINATION

7 BY MR. WAGNER:

8 Q. MR. JONES, WHERE DO YOU LIVE?

9 A. I LIVE IN COLUMBIA, SOUTH CAROLINA.

10 Q. ARE YOU EMPLOYED?

11 A. YES, I AM.

12 Q. BY WHOM?

13 A. RIVER RUNNER OUTDOOR CENTER.

14 Q. WHO OWNS RIVER RUNNER?

15 A. I'M ONE OF THE OWNERS, I'M THE MAJORITY OWNER.

16 Q. HOW MUCH OF RIVER RUNNER DO YOU OWN?

17 A. ABOUT 60 PERCENT.

18 Q. WHAT POSITION DO YOU HOLD WITH RIVER RUNNER?

19 A. I'M THE PRESIDENT.

20 Q. WHAT DOES RIVER RUNNER DO?

21 A. RIVER RUNNER IS A RETAILER OF CANOES AND KAYAKS AND  
22 OUTDOOR EQUIPMENT AND ALSO PROVIDES CANOE TRIPS FOR THE  
23 GENERAL PUBLIC.

24 Q. WHAT DOES PROVIDING A CANOE TRIP ENTAIL?

25 A. A CANOE TRIP INVOLVES ASSEMBLING A GROUP OF INTERESTED

GARY M. SMITH, RMR  
COLUMBIA, SOUTH CAROLINA

PLAINTIFFS'  
EXHIBIT  
10

1 PEOPLE AND TAKING THEM TO A RIVER OR LAKE AREA AND CONDUCTING  
2 A CANOE OR KAYAKING TRIP.

3 Q. WHO ARE YOUR CLIENTS?

4 A. OUR CLIENTS ARE JUST INDIVIDUALS, BUSINESSES, SCHOOLS, A  
5 VARIETY OF THE PUBLIC.

6 Q. DO YOU GUIDE TRIPS YOURSELF?

7 A. YES, I DO.

8 Q. ARE YOU THE ONLY GUIDE EMPLOYED BY RIVER RUNNER?

9 A. NO, WE HAVE ABOUT EIGHT GUIDES.

10 Q. HOW LONG HAS RIVER RUNNER BEEN IN BUSINESS?

11 A. SINCE 1983.

12 Q. HOW MANY CANOE TRIPS A YEAR DOES RIVER RUNNER CONDUCT?

13 A. WE DO PROBABLY ABOUT 50 OR 75 CANOE TRIPS A YEAR.

14 Q. HOW MANY CANOE TRIPS A YEAR DO YOU GUIDE YOURSELF?

15 A. PROBABLY ABOUT 25.

16 Q. WHO MAKES THE REST OF THE TRIPS?

17 A. OUR OTHER PART-TIME GUIDES. THESE ARE NOT FULLTIME  
18 PEOPLE BUT THEY WORK WITH US PART-TIME.

19 Q. WHERE DO RIVER RUNNER CANOE TRIPS TAKE PLACE?

20 A. IN RIVERS AND LAKES ALL AROUND SOUTH CAROLINA, INCLUDING  
21 THE EDISTO.

22 Q. WHAT PARTS OF THE EDISTO RIVER DO RUNNER CANOE TRIPS TAKE  
23 PLACE ON?

24 A. WELL, WE CANOE FROM THE MAIN STEM, AN AREA THAT IS  
25 DESCRIBED AS GREEN POND CHURCH, TO COLLETON STATE PARK.

1 ANOTHER AREA IS FROM SHILL'S (PHONETIC) BRIDGE TO THE EDISTO  
2 GARDENS IN ORANGEBURG, AND ANOTHER IS FROM A LOCATION CALLED  
3 ROWESVILLE DOWN TO A LOCATION CALLED BRANCHVILLE. BOTH OF  
4 THOSE TWO TRIPS ARE ON THE NORTH FORK OF THE EDISTO.

5 Q. OF THE TRIPS THAT YOU TAKE ON TO THE NORTH FORK OF THE  
6 EDISTO, WHERE ON THE NORTH FORK DO THOSE TAKE PLACE?

7 A. WELL, THE FIRST ONE, SHILL'S BRIDGE, IS ABOVE ORANGEBURG  
8 AND THE SECOND ONE IS BELOW ORANGEBURG.

9 Q. REMIND ME, WHICH IS THE PORTION, THE SECOND ONE BELOW  
10 ORANGEBURG?

11 A. THAT IS THE AREA CALLED ROWESVILLE DOWN TO BRANCHVILLE.

12 Q. DOES-- WHERE DOES THE ROWESVILLE AND BRANCHVILLE SECTION  
13 EXIST IN RELATION TO BULL SWAMP CREEK?

14 A. IT'S DOWNSTREAM. AND ALSO THE OTHER PORTION, SHILL'S  
15 BRIDGE, IS DOWNSTREAM I BELIEVE OF BULL SWAMP CREEK.

16 Q.. HOW MANY TRIPS HAS THE RIVER RUNNER LED ON THE ROWESVILLE  
17 TO BRANCHVILLE PORTION OF THE NORTH FORK OF THE EDISTO?

18 A. OH, WE HAVE PROBABLY HAD FIVE OR SIX TRIPS THERE. THE  
19 MORE POPULAR ROUTE WE DO BECAUSE IT'S MORE CONDUCIVE TO NOVICE  
20 PADDLERS IS DOWN THE MAIN STEM OF THE EDISTO FROM GREEN POND  
21 CHURCH TO COLLETON STATE PARK.

22 Q. GOING BACK FOR A SECOND TO THE ROWESVILLE TO BRANCHVILLE  
23 PORTION, HAVE YOU GUIDED TRIPS ON THIS PORTION OF THE NORTH  
24 FORK YOURSELF?

25 A. YES, I HAVE.

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1 Q. DO YOU EXPECT TO DO SO AGAIN IN THE FUTURE?

2 A. YES.

3 Q. WHERE ON THE MAIN STEM OF THE EDISTO RIVER DOES RIVER  
4 RUNNER TRIPS TAKE PLACE?

5 A. FROM GREEN POND CHURCH, WHICH IS APPROXIMATELY EIGHT  
6 MILES UPSTREAM FROM COLLETON STATE PARK.

7 Q. AND WHERE IS THIS IN RELATION TO THE NORTH FORK OF THE  
8 EDISTO?

9 A. IT'S DOWNSTREAM, APPROXIMATELY-- APPROXIMATELY 10 MILES  
10 BELOW THE CONFLUENCE OF THE NORTH FORK AND THE SOUTH FORK.

11 Q. HOW MANY TRIPS PER YEAR DOES RIVER RUNNER LEAD ON THE  
12 MAIN STEM OF THE EDISTO?

13 A. WE PROBABLY LEAD ABOUT-- ABOUT EIGHT TO 10 TRIPS A YEAR,  
14 AT LEAST.

15 Q. DO YOU GUIDE TRIPS ON THE EDISTO YOURSELF?

16 A. YES.

17 Q. WHAT ARE THE RESPONSIBILITIES OF A GUIDE ON A RIVER  
18 RUNNER CANOE TRIP?

19 A. THE GUIDE'S DUTY IS TO COORDINATE THE LOGISTICS OF THE  
20 TRIP, TO PROVIDE BASIC INSTRUCTION FOR THE MEMBERS OF THE  
21 TRIP, TO ENSURE THE SAFETY OF ALL THE PARTICIPANTS OF THE  
22 TRIP, AND THAT INCLUDES RESCUING CANOES WHEN THEY TURN OVER,  
23 HELPING, ASSISTING PARTICIPANTS IN GETTING BACK IN THEIR  
24 CANOES. ON CERTAIN SEGMENTS OF THE RIVER, PARTICULARLY THE  
25 NORTH FORK, IT INVOLVES A LOT OF CANOE ACTIVITY IN MOVING

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1 CANOES FROM LOG TO LOG AND GOING OVER OBSTRUCTIONS.

2 THE COURT: ONE MOMENT MR. JONES, IF YOU HEAR THAT  
3 OCCASIONAL THUNDER, THAT'S YOU, YOU ARE A LITTLE BIT CLOSE TO  
4 THE MICROPHONE. JUST SEPARATE YOURSELF A LITTLE BIT AND IT  
5 WILL PICK YOU UP.

6 THE WITNESS: THANK YOU, SIR.

7 BY MR. WAGNER:

8 Q. DO THE GUIDES ON A RIVER RUNNER CANOE TRIP EVER GO INTO  
9 THE WATER?

10 A. OH, YES, WE DO.

11 Q. WHY WOULD THEY GO INTO THE WATER?

12 A. WELL, GENERALLY IT WOULD BE TO ASSIST A MEMBER OF THE  
13 TRIP IN GETTING BACK INTO THEIR CANOE OR IT MAY BE, AS I WAS  
14 JUST SAYING, TO ASSIST IN PULLING A CANOE OVER AN OBSTRUCTION,  
15 AND NOT INFREQUENTLY IT MAY BE JUST BECAUSE THEY HAPPENED TO  
16 TURN OVER THEMSELVES.

17 Q. HOW FREQUENTLY DO YOU GO INTO THE WATER WHEN YOU GUIDE  
18 TRIPS?

19 A. USUALLY EACH TRIP THERE IS AT LEAST ONE OR TWO REASONS TO  
20 GO INTO THE WATER.

21 Q. DO RIVER RUNNER'S CLIENTS SWIM IN THE RIVER DURING THE  
22 COURSE OF A TRIP?

23 A. FREQUENTLY, PARTICULARLY ON THE EDISTO, THE EDISTO IS  
24 CONSIDERED TO BE A VERY INVITING RIVER FOR SWIMMING.

25 Q. DO THEY WADE IN THE RIVER DURING THE COURSE OF A TRIP?

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1 A. YES.

2 Q. DO THEY PICNIC ALONGSIDE THE RIVER?

3 A. YES.

4 Q. DO THEY FISH IN THE RIVER?

5 A. SOMETIMES.

6 Q. DO THEY CATCH FISH?

7 A. YES.

8 Q. WHAT DO THEY DO WITH THE FISH THAT THEY CATCH?

9 A. SOME PEOPLE TAKE THE FISH HOME AND PRESUMABLY I ASSUME  
10 THEY WOULD EAT THEM.

11 Q. ARE YOU CONCERNED ABOUT THE QUALITY OF THE WATER IN THE  
12 RIVERS IN WHICH YOU CANOE?

13 A. YES, VERY MUCH.

14 Q. WHAT IS YOUR CONCERN?

15 A. WELL, OUR BUSINESS IS VERY MUCH DEPENDENT UPON THE  
16 PUBLIC'S PERCEPTION THAT WATER QUALITY IS GOOD, PEOPLE ARE  
17 REALLY ONLY INTERESTED IN TAKING CANOE TRIPS IN AREAS THAT  
18 ARE-- THAT HAVE HIGH AQUATIC QUALITY AND THAT YOU WOULDN'T  
19 MIND SWIMMING IN OR WADING IN.

20 Q. WHAT DO YOU UNDERSTAND TO AFFECT THE QUALITY OF THE  
21 WATER?

22 A. WELL, ON THE EDISTO THE HEAVY METALS THAT MAY BE PRESENT  
23 FROM THE GASTON COPPER PLANT POSE A VERY REAL CONCERN. OF  
24 COURSE, LEVELS OF NON-POINT SOURCE POLLUTION, THAT IS RUN OFF  
25 FROM FIELDS AND URBAN AREAS, IS ANOTHER FORM OF POLLUTION.

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COLUMBIA, SOUTH CAROLINA

1 Q. DOES THE AMOUNT OF POLLUTION IN THE WATER IN WHICH YOU  
2 CANOE AND SWIM AFFECT YOU?

3 MR. JACOBS: MAY IT PLEASE THE COURT, THERE IS NO  
4 EVIDENCE OF POLLUTION IN THE WATER AND I OBJECT TO THE  
5 QUESTION.

6 THE COURT: IT SEEMS A GOOD OBJECTION, I-- YOU  
7 HAVEN'T ESTABLISHED THAT HE KNOWS ANYTHING ABOUT THE CONTENT  
8 OF THE WATER.

9 BY MR. WAGNER:

10 Q. DOES YOUR BELIEF IN THE QUALITY OF THE WATER, INCLUDING  
11 THE AMOUNT OF POLLUTION THAT YOU BELIEVE TO BE IN THE WATER,  
12 AFFECT YOUR ENJOYMENT OF CANOEING OR SWIMMING IN THE WATER?

13 A. WELL, YES, IT DOES VERY MUCH.

14 Q. IN WHAT WAY?

15 A. I HAVE GREATER CONFIDENCE IN OUR ABILITY TO MARKET OUR  
16 TRIPS TO THE GENERAL PUBLIC WHEN WE ARE TAKING PEOPLE INTO AN  
17 AREA THAT THEY ARE GOING TO HAVE A QUALITY EXPERIENCE AND THAT  
18 THEIR HEALTH IS GOING TO BE NOT THREATENED BY THE QUALITY OF  
19 THE WATER.

20 Q. IF YOU BELIEVED THERE TO BE LESS POLLUTION IN THE WATER,  
21 WOULD THAT--

22 MR. JACOBS: MAY IT PLEASE THE COURT, I OBJECT TO  
23 ANYTHING HE BELIEVES ABOUT POLLUTION. THERE IS NO TESTIMONY  
24 THAT ANYTHING IN THE EDISTO HAS ATTRIBUTED OR IMPACTED ON THE  
25 BUSINESS.

1 MR. WAGNER: YOUR HONOR, HE STATED THAT HE'S  
2 CONCERNED ABOUT THE QUALITY OF THE WATER AND THAT IT WAS  
3 POLLUTANTS THAT CAUSED THAT CONCERN.

4 THE COURT: I HEARD THAT, YES.

5 MR. WAGNER: AND I'M TRYING TO DETERMINE HOW THAT  
6 CONCERN AFFECTS HIS ACTIVITIES ON THE WATER.

7 THE COURT: YOU DIDN'T ASK HIM THAT, IF YOU WANT TO  
8 ASK HIM HOW DO YOUR CONCERNS AFFECT YOUR--

9 BY MR. WAGNER:

10 Q. MR. JONES, HOW DOES YOUR CONCERN ABOUT POLLUTION AFFECT  
11 YOUR ENJOYMENT OF CANOEING AND SWIMMING?

12 A. WELL, WE TEND TO DIRECT OUR ACTIVITIES IN THE FORM OF  
13 CANOE TRIPS TOWARD AREAS THAT PEOPLE WILL ENJOY AND WILL FEEL  
14 SAFE IN, AND SO WE ARE VERY CONCERNED. AND THIS INVOLVES  
15 EVERY RIVER THROUGHOUT THE STATE THAT WE-- AT ONE POINT OR  
16 ANOTHER WE'VE PROBABLY CONDUCTED A TRIP ON JUST ABOUT EVERY  
17 NAVIGABLE RIVER IN SOUTH CAROLINA. THE QUALITY OF THE WATER  
18 ON AN ONGOING BASIS IS OF PARAMOUNT CONCERN TO US.

19 Q. IF YOU WERE LESS CONCERNED ABOUT THE POLLUTION IN THE  
20 WATER, HOW WOULD THAT AFFECT YOUR ENJOYMENT OF SWIMMING AND  
21 CANOEING?

22 MR. JACOBS: MAY IT PLEASE THE COURT--

23 THE COURT: I SUSTAIN THE OBJECTION, IT CALLS FOR  
24 SPECULATION.

25 BY MR. WAGNER:



1 Q. ARE YOU YOURSELF, ASIDE FROM YOUR BUSINESS INTERESTS,  
2 CONCERNED ABOUT THE QUALITY OF THE WATER THAT WE HAVE BEEN  
3 DISCUSSING?

4 A. YES, I AM.

5 Q. ARE YOU CONCERNED ABOUT THE QUALITY OF THE NORTH FORK OF  
6 THE EDISTO?

7 A. YES.

8 Q. ARE YOU CONCERNED ABOUT THE QUALITY OF THE MAIN STEM OF  
9 THE EDISTO?

10 A. YES.

11 Q. DO YOU CANOE OR KAYAK ON THOSE AREAS ASIDE FROM LEADING  
12 TRIPS AS A GUIDE?

13 A. YES, I DO.

14 Q. IN THE SAME AREAS THAT YOU MENTIONED PREVIOUSLY?

15 A. THOSE AREAS AND OTHERS AS WELL.

16 Q. ARE YOU A MEMBER OF THE CITIZENS LOCAL ENVIRONMENTAL  
17 ACTION NETWORK?

18 A. YES.

19 Q. HOW DID YOU BECOME A MEMBER?

20 A. THROUGH AN ASSOCIATION WITH THE LEADERSHIP OF THE-- OF  
21 CLEAN, MEETING WITH THEM THROUGH VARIOUS ACTIVITIES THAT THEY  
22 HAVE BEEN ENGAGED IN AT VARIOUS PUBLIC MEETINGS AND FUNCTIONS  
23 THAT INVOLVE ENVIRONMENTAL MATTERS.

24 Q. ARE YOU A MEMBER OF FRIENDS OF THE EARTH?

25 A. YES, I AM.

1 COPPER RECYCLING?

2 A. I DON'T KNOW.

3 Q. ALL RIGHT, SIR. HOW MANY POINT SOURCES OF DISCHARGE ARE  
4 THERE ON THE EDISTO RIVER OR ITS TRIBUTARIES?

5 A. I DON'T KNOW THAT.

6 Q. HOW MANY IN THE NORTH FORK OF THE EDISTO?

7 A. I DON'T KNOW THAT EITHER.

8 Q. HOW ABOUT THE SOUTH FORK OF THE EDISTO?

9 A. I DON'T KNOW THAT EITHER.

10 Q. HOW FAR FROM THE NORTH FORK OF THE EDISTO IS IT FROM LAKE  
11 WATSON?

12 A. FROM LAKE--

13 Q. WATSON?

14 A. IS THAT THE LAKE THAT MR. SHEALY WAS REFERRING TO  
15 EARLIER?

16 Q. NO, SIR, THAT IS THE DISCHARGE POINT OF GASTON COPPER  
17 RECYCLING.

18 A. HOW FAR IS THAT FROM THE NORTH FORK OF THE EDISTO?

19 Q. YES, SIR.

20 A. I BELIEVE IT'S APPROXIMATELY 10 TO 15 MILES.

21 Q. WHAT IS THE VOLUME OF THE WATER DISCHARGING INTO THE  
22 EDISTO BASIN?

23 A. I DON'T KNOW THAT IN CUBIC FEET PER SECOND.

24 Q. HOW ABOUT IN THE NORTH FORK OF THE EDISTO?

25 A. I DON'T KNOW THAT EITHER.

1 Q. WHAT IS THE VOLUME OF DISCHARGE FROM GASTON COPPER  
2 RECYCLING?

3 A. I'M AFRAID I DON'T KNOW THAT.

4 MR. JACOBS: THANK YOU.

5 THE COURT: ANY QUESTIONS ON REDIRECT?

6 MR. WAGNER: NO, YOUR HONOR.

7 THE COURT: VERY GOOD, YOU MAY STEP DOWN.

8 MR. WAGNER: PLAINTIFF CALLS WILLIAM MCCULLOUGH.

9 THE CLERK: STATE YOUR NAME FOR THE RECORD.

10 THE WITNESS: WILLIAM E. MCCULLOUGH, JR.

11 THE CLERK: SPELL YOUR LAST NAME, PLEASE.

12 THE WITNESS: M-C-C-U-L-L-O-U-G-H.

13 WILLIAM E. MCCULLOUGH, JR., SWORN

14 DIRECT EXAMINATION

15 BY MR. WAGNER:

16 Q. MR. MCCULLOUGH, WHERE DO YOU LIVE?

17 A. CHAPIN.

18 Q. DO YOU ENGAGE IN ANY WATER SPORTS?

19 A. YES.

20 Q. WHICH ONES?

21 A. SCUBA DIVING.

22 Q. ANY OTHERS?

23 A. BOATING ON OCCASION.

24 Q. WHERE DO YOU SCUBA DIVE?

25 A. LAKE MURRAY PRIMARILY, COOPER RIVER, AND I HAVE BEEN TO